

Appl. No. 09/877,374

Reply to Office action of January 22, 2009

### **REMARKS/ARGUMENTS**

Claims 1 to 5, 9 to 29, 62 to 70, 72, 74, 75 and 76 are pending in this application. This amendment includes no new matter.

The Examiner rejects claim 76 under 35 USC 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner indicates that the claim contains subject matter which was not described in the specification at the time the application was filed and that the claim constitutes new matter. Applicant traverses the rejection.

As is understood by a practitioner of skill in the art, the feature of claim 76 regarding the antibodies which are produced in accordance with the invention being afucosylated is at least inherent in the specification. That is, the antibodies resulting from the disclosed and claimed methods will be afucosylated.

The Examiner rejects claims 1 to 5, 9 to 17, 19 to 29, 62, 63, 74 and 76 under 35 USC 103(a) as being obvious over the previously cited art including Dutillio when taken with Sanders and in further view of Mohammed and in further view of Michael. Applicant traverses the rejection.

Applicant maintains his arguments regarding the non-obviousness of claims 1 to 5, 9 to 17, 19 to 29, 62, 63, 74 set forth in arguments of applicants previous Responses.

Further, claim 76 cannot be obvious because none of the cited references mention making an afucosylated antibody and none of the references put forth a method to make an afucosylated antibody. Furthermore, since it was unknown that avian oviduct cells produce afucosylated antibodies prior to the present invention, there would be no motivation to combine the cited references to make afucosylated antibodies. That is, *the Examiner has identified no reason why a person of ordinary skill in the art would have combined any prior art elements to arrive at the claimed invention.*


The invention clearly yields unexpected results, i.e., a method which resulted in antibodies which are afucosylated, and as is understood in the art contained increased ADCC activity, would not have been expected prior to the date of filing. Accordingly, the rejections are improper and should be withdrawn.

Appl. No. 09/877,374  
Reply to Office action of January 22, 2009

The Commissioner is authorized to deduct fees(s) required for entry of this Response from Deposit Account No. 501729. Please deduct fees from, or credit any overpayment to, the above-noted Deposit Account.

If any issues remain to be addressed in this matter, which might be resolved by discussion, the Examiner is respectfully requested to call applicants' undersigned counsel at the number indicated below.

Respectfully submitted,



Kyle Yesland  
Attorney for Applicants  
Reg. No. 45,526  
AviGenics, Inc.  
Legal Department  
111 Riverbend Road  
Athens, Georgia 30605